

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY PARRY,

Plaintiff

v.

HON. DENISE PAGE HOOD
CASE NO. 2:22-CV-11328

HOSPICE OF MICHIGAN, INC.,
a Michigan non-profit corporation,

Defendant.

Sarah S. Prescott (P70510)
Annemarie Smith-Morris (P87221)
SALVATORE PRESCOTT PORTER
& PORTER, PLLC
Attorneys for Plaintiff
105 East Main Street
Northville, MI 48167
(248) 679-8711
prescott@sppplaw.com
smith-morris@sppplaw.com

David R. Deromedi (P42093)
Angelina R. Delmastro (P81712)
DICKINSON WRIGHT PLLC
Attorneys for Defendant
500 Woodward Ave., Suite 4000
Detroit, MI 48226
(313) 223-3500
dderomedi@dickinsonwright.com
adelmastro@dickinsonwright.com

Kenneth M. Mogill (P17865)
MOGILL, POSNER & COHEN
Attorneys for Plaintiff
27 E. Flint St., 2nd Floor
Lake Orion, MI 48362
(248) 814-9470
kmogill@bignet.net

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S EX PARTE MOTION FOR LEAVE TO FILE
SUR-REPLY TO DEFENDANTS' MOTION TO PARTIALLY
DISMISS PLAINTIFF'S COMPLAINT**

Defendants, Hospice of Michigan, Robert Cahill, Patrick Miller and Lee Ann Myers (collectively, “Defendants”) hereby file this Response to Plaintiff’s Ex Parte Motion for Leave to File Sur-Reply to Defendants’ Motion to Partially Dismiss Plaintiff’s Complaint.

Defendants’ Motion to Partially Dismiss Plaintiff’s First Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6) was filed on August 3, 2022 (ECF No. 6). The Motion included arguments regarding the sufficiency of the allegations against the individual Defendants in the First Amended Complaint. The Court held oral argument on October 11, 2022. As Plaintiff states in the Ex Parte Motion, the Court has not issued a decision on Defendant’s Motion.

The parties thereafter conducted discovery in this matter. Discovery closed on April 22, 2024. The parties developed an extensive record in this case through the discovery process. Defendants deposed Plaintiff regarding the allegations underlying his claims in the First Amended Complaint. Plaintiff deposed each of the individually named Defendants.

Plaintiff requests that the Court deny Defendant’s Motion to Partially Dismiss Plaintiff’s First Amended Complaint. As a result of the fact that discovery is completed and with regard to the discovery obtained in this matter, and the parties have agreed to mediate this case and are awaiting a trial date, Defendants will voluntarily withdraw their Motion to Partially Dismiss from further review and

consideration by the Court. While Defendants do not waive the arguments raised in the Motion to Partially Dismiss related to whether individual defendants are subject to liability for a retaliation claim under the False Claims Act (See ECF No. 6, pp. 9-10, 15-16 and cases cited therein), and will preserve them for trial, the Defendants no longer request that the Court consider and rule on their Motion to Partially Dismiss Plaintiff's First Amended Complaint and proceed with this matter.

Therefore, Defendants respectfully request that the Court deny Plaintiff's Motion For Leave to File-Sur Reply to Defendants' Motion to Partially Dismiss Plaintiff's Complaint and further request that the Court allow Defendants to voluntarily withdraw the Motion from further consideration.

Respectfully submitted,
DICKINSON WRIGHT PLLC

By: /s/ David R. Deromedi
David R. Deromedi (P42093)
Angelina R. Delmastro (P81712)
500 Woodward Avenue, Suite 4000
Detroit MI 48226
(313) 223-3500
dderomedi@dickinsonwright.com
adelmastro@dickinsonwright.com

Attorneys for Defendants

Dated: August 9, 2024

CERTIFICATE OF SERVICE

I certify that on August 9, 2024, I electronically filed the foregoing *Defendants' Response to Plaintiff's Ex Parte Motion for Leave to File Sur-Reply to Defendants' Motion to Partially Dismiss Plaintiff's Complaint* with the Clerk of the Court using the ECF system, which will send notification of such filing to all parties of record.

/s/ Colleen L. Maguire

Legal Secretary
DICKINSON WRIGHT, PLLC
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226-3425
(313) 223-3500
cmaguire@dickinsonwright.com